Address of President Frederick L. Taft, on the Work of the Constitutional Convention.

Delivered at the Thirty-third Annual Meeting of the Ohio State Bar Association, July 9, 1912.

The Fourth Constitutional Convention of Ohio has been held since the last session of this association. The convention adopted forty-one separate proposals, seeking to amend our present Constitution. Each is to be submitted separately to the electors of the state of Ohio at a special election to be held on the 3d day of September, 1912.

No constitutional convention has ever been held since the organization of the Ohio State Bar Association, and as president it seemed to me that there was no more important subject that could be discussed at this time than the work of the constitutional convention.

The first and original Constitution of Ohio was adopted in 1802. Although it contained a provision for a constitutional convention to be held at any time whenever two-thirds of the General Assembly should think it necessary and a majority of the electors should vote therefor, none was held until 1851, when the present Constitution was adopted. Another was held in 1873 but the Constitution proposed was overwhelmingly defeated and no other convention was held until this year.

The members of the convention were selected on a non-partisan ballot. Party lines were not drawn either in the election of the members or in the convention after it was in session. The membership was thoroughly representative. Some members were ripened by years of age and experience and others were

young, eager, active and full of enthusiasm. The radicals and conservatives were each well represented.

A large number of proposals were submitted, and were carefully considered in committees and fully discussed. Amendments were made and there was a genuine endeavor to secure as great unanimity as possible to the end that all members might support the work of the convention and that its work might meet the approval of the electors, and every member but one finally signed the certificate showing the action of the convention.

In the proposals submitted the present progressive tendency is apparent, but the safeguards suggested as a result of the experience of other states with new constitutions appear. The work of the convention has been generally approved and commended and so far no outspoken opposition to any proposals has appeared, but there has to the present time not been much discussion, and it may be that opposition may develop as the proposals shall be further examined, discussed and considered.

The most important proposal to members of this association is the proposition introduced by Judge Peck, of Cincinnati, which proposes a radical change in our judicial system.

Others of great importance to the members of this association will be submitted, but in this address it will not be possible to take up and discuss at length these separately, but many of them will undoubtedly be the subject of discussion at this meeting. Several relate directly to the administration of justice, and as citizens we are interested in the full and frank discussion of every one.

One of the most important of these relating to the administration of justice is the first, which permits the General Assembly to pass laws to authorize the rendering of a verdict in civil cases by the concurrence of not less than two-thirds of the jury. It permits the enactment of a law hereafter and is not self-executing. The number of the jurors required to concur may be made more than nine. While this appears to be a radical change of the time-honored provision of the jury system, an examination discloses similar provisions in the Constitution of other states. Some have been in effect for a great many years. California, Idaho, Minnesota, Montana, Missouri, Nevada, Oregon, South Dakota, Utah and Washington are some of the states which have similar provisions, some requiring the concurrence

of five-sixths of the jury, and in the state of Minnesota there is added the requirement, "after not less than six hours' deliberation." The purpose is to eliminate the power of the corrupt or obstinate juror to obstruct justice.

The second abolishes capital punishment. The third relates to criminal procedure and authorizes the taking of depositions, by the accused, or by the state, to be used for or against the accused, of any witness whose attendance can not be had at the trial, always securing to the accused means and the opportunity to be present in person, and with counsel, at the taking of the depositions, and to examine the witness face to face, as fully and in the same manner as if in court. The provision that no person shall be compelled, in a criminal case, to be a witness against himself is retained, but failure to testify may be considered by the court and jury and may be made the subject of comment by counsel.

Another authorizes suits to be brought against the state in such courts and in such manner as may be provided by law. Heretofore any one having a claim against the state of Ohio was dependent upon the good will of the General Assembly to secure its payment, and recently in one instance authority was given for an action to be instituted directly against the state. There is apparently no good reason why the state should not be held to answer in civil cases even as an individual.

A new provision is sought to be added to the Constitution providing that the amount of damages recoverable by civil action in the court for death caused by wrongful act, neglect or default of another shall not be limited by law. At the present time a statute limits the amount of recovery for damages, but this statute could at any time be amended, and in fact recently has been amended by the General Assembly.

Initiative and Referendum are provided for in another proposal. The Referendum reserves to the people the power to adopt or reject any law, a section of a law, or any item in any law appropriating money, passed by the General Assembly, except laws providing for tax levies, appropriations for the current expenses of the state government and state institutions, and emergency laws necessary for the immediate preservation of the public peace, health or safety, but these emergency laws must be enacted by a two-thirds vote. Initiative allows electors to pro-

pose laws and constitutional amendments, subject to the requirements and restrictions therein set forth.

In an address of this kind sufficient time is not given to take up and discuss this proposal in detail. It is a subject on which there is great interest, and was the subject of a very interesting discussion before this association several years ago.

The members of the constitutional convention defeated the proposal for the recall of judges, but passed a proposal providing for the prompt removal from office, upon complaint and hearing, of all officers, including state officers, judges and members of the General Assembly, for any misconduct involving moral turpitude, or for any other causes provided by law, and then expressly provided that this method of removal should be in addition to impeachment or other method of removal authorized by the Constitution. The demand for the recall of judges and other officers arises in part from the fact that the present method of impeachment is inefficient to remove public officers, and those who oppose the recall of judges do not oppose a provision of this kind. No one should be elected to office or allowed to remain in office, who has been guilty of moral turpitude. There should be means for prompt removal after complaint and hearing.

Another provides that laws may be passed prescribing rules and regulations for the conduct of cases and business in the courts of the state; regulates proceedings in contempt and limits the power to punish for misconduct, and that no order of injunction shall issue in any controversy involving the employment of labor, except to preserve physical property from injury or destruction, and that all persons charged in contempt proceedings with the violation of an injunction issued in such controversy shall, upon demand, be granted a trial by jury, as in civil cases.

Another proposal of great interest to members of the legal profession gives authority to provide compensation to workmen and their dependents for death, injury or occupational diseases occasioned in the course of such workmen's employment, and authorizes the passage of laws to establish a state fund, to be created by compulsory contributions thereto by employers and administered by the state, to determine the terms and conditions upon which payment shall be made therefrom, and to take away any and all rights of action or defense from the employe and

employer and grants wide authority to make effectual a workmen's compensation law. This will permit constitutional legislation of this character to be enacted. The cause of much litigation would thereby be eliminated. A great portion of the time of our courts and juries is now taken up with litigation for damages arising out of injuries, which would in this way be taken from the courts. The present workmen's compensation law has not apparently accomplished so much as was expected, but under this constitutional provision laws could be enacted that would be efficient to accomplish the result desired.

Other proposals affecting the administration of justice in this state authorizes the passing of laws for the regulation of the use of expert witnesses and expert testimony in criminal trials and proceedings and for the registering and warranting of land titles, and the abolition of justices of the peace in certain cities which have municipal courts to take the place of justices.

Of general interest are other proposals providing for investigations by each House of the General Assembly; limiting the veto power of the Governor; authorizing the passing of laws to secure to mechanics and material men direct liens upon the property upon which they have bestowed their labor or for which they have furnished material; granting authority to pass laws to fix and regulate the hours of labor; to establish a minimum wage and provide for the comfort, health, safety and general welfare of employes; authorizing the passing of laws for the conservation of natural resources; fixing eight hours as a day's work for workmen engaged in any public work carried on or aided by the state, or any political subdivision thereof, whether carried on by contract or otherwise; abolishing prison contract labor; limiting the power of the General Assembly in extraordinary sessions; granting woman's suffrage; omitting the word "white" from the Constitution; providing for the use of voting machines; requiring all nominations for elective, state, district, county and municipal offices to be made at direct primary elections, and requiring provisions to be made by law for a preferential vote for United States Senator, and requiring delegates to national conventions to be elected by direct vote of the electors, and that each candidate for delegate shall state his first and second choice for the President, which preference shall be printed upon the primary ballot below the name of the candidate, but further

providing that the name of no candidate for the presidency shall be so used without his written authority; providing for a reorganization of our public school system, with a superintendent of public instruction to replace the state commissioner of public schools; authorizing the state bond limit to be extended to $50,000,000, for inter-county wagon roads; authorizing the insuring of public buildings and property in mutual insurance associations or companies, and that laws may be passed providing for the regulation of all rates charged by any insurance company, corporation or association, organized under the laws of this state, or doing any insurance business in this state for profit; seeking to abolish the board of public works; a law authorizing the taxation of state and municipal bonds, inheritances, incomes, franchises and production of minerals; providing for the regulation of corporations and the sale of personal property by them; restoring the double liability as against stockholders of state banks, and providing for the inspection, examination and regulation of all state and private banks; seeking to regulate the state printing.

Providing that women may be appointed as notaries public or as members of boards of, or to positions in those departments and institutions established by the state, or any political subdivision, involving the care of women or children, or both. This would not be necessary if women shall be granted woman's suffrage, as is provided in another proposal. The question of licensing the traffic of intoxicating liquors is the subject of a proposal, and it is deemed of such importance that it is to be submitted apart from the other proposals, each of which is separately submitted.

Another provides that appointments and promotion for the civil service of the state, in the several counties and cities shall be made according to merit and fitness, to be ascertained as far as possible by competitive examination, and that laws shall be passed providing for the enforcement of this provision.

There is also a provision in another that laws may be passed regulating and limiting the use of property on or near public ways and grounds for erecting bill-boards thereon and the public display of posters, pictures and other forms of advertising.

Another provides for method of submitting amendments to the Constitution, and still another for municipal home rule in its widest sense.

These proposals are certainly of great interest to any gathering, and particularly in a gathering of the lawyers of the state of Ohio, who are members of the Ohio State Bar Association. There would be profit in discussing each and all of these provisions and no body of men could be assembled that would be better able to discuss these various provisions than those who are here as members of this association. Many of the proposals arise out of decisions of our courts holding certain laws heretofore enacted by the General Assembly to be unconstitutional and the Constitutional Convention has sought by amending the Constitution to permit the enactment of such laws. On the other hand, other proposals provide for radical changes in the legislative policy of the state, and reflect the progressive ideas of the people.

Before the electors of the state shall have an opportunity to vote on these various proposals all of these matters will undoubtedly be freely discussed and the members of this association will be called upon to explain their views and give the people the benefit of their advice and counsel as to the wisdom of adopting any or all of the proposals.

In this address it has seemed best, in the limited time given me, as president of the association, to confine myself to the proposals as submitted by Judge Peck, of Cincinnati, providing for a change in our judicial system, and by James W. Halfhill, of Lima, providing for a judge of the court of common pleas in each county.

These two proposals are so related that it will be necessary to consider them together, although it is possible for one to be adopted and the other to be rejected. At the last session of our association a committee was appointed to present certain recommendations of this association to the constitutional convention. The committee was fortunate in that one of its members, Judge E. B. King, was a member of the constitutional convention and in that way in a position to give personal attention to the matter at all times.

The proposal by Mr. Halfhill, also a member of this association, was the one proposal that the association, at its last meeting, recommended, which was adopted by the constitutional convention. The proposal by Judge Peck was a much more radical proposal than had been theretofore suggested, and was supported

by the Cincinnati Bar Association, which had a large influence in securing the passage of the proposal.

The proposal for a change in our judicial system provides for a Supreme Court, until otherwise provided by law, consisting of a chief justice and six judges. It gives the Supreme Court original jurisdiction as at present and appellate jurisdiction in all cases involving questions arising under the Constitution of the United States or of this state, in cases of felony, on leave first obtained, and in cases which originated in the court of appeals and such revisory jurisdiction of the proceedings of the administrative officers as may be conferred by law. The judges shall be elected for terms of not less than six years, as may be prescribed by law.

No law shall be held unconstitutional and void by the Supreme Court without the concurrence of at least all but one of the judges, except in the affirmative of a judgment of the court of appeals declaring a law unconstitutional and void.

It is a further provision that in cases of public or great general interest, the Supreme Court may, within such limitations of time as may be prescribed by law, direct any court of appeals to certify its record to the Supreme Court and may review and affirm, modify or reverse the judgment of the court of appeals, and there is an express constitutional provivion that no law shall be passed or rule made whereby any person shall be prevented from invoking the original jurisdiction of the Supreme Court.

A court of appeals consisting of three judges in each of the present circuits in which circuit courts are now held is created and it is provided that the judges of the circuit courts now residing in their respective districts shall be judges of the respective courts of appeals in such districts. The court of appeals shall hold at least one term annually in each county in the district, and such other terms at a county seat in the dictrict as the judges may determine upon.

The same original jurisdiction is given the court of appeals as to the circuit court at present, and appellate jurisdiction in the trials of chancery cases and jurisdiction to review, affirm, modify or reverse the judgments of the court of common pleas, superior courts or other courts of record within the district as may be provided by law, and it is expressly provided that judgments of the courts of appeals shall be final in all cases except

cases arising under the Constitution of the United States, or of this state, cases of felony, cases of which it has original jurisdiction and cases of public or great general interest, in which the Supreme Court may direct any court of appeals to certify its record to that court.

No judgment shall be reversed on the weight of the evidence except by the concurrence of all of the judges of the courts of appeals and by a majority of the courts of appeals on other questions. Authority is given whenever the judges of a court of appeals find that a judgment upon which they have agreed is in conflict with a judgment pronounced upon the same question by any other court of appeals of the state to certify the record of the case to the Supreme Court for review and final determination.

The Chief Justice of the Supreme Court of the state shall determine the disability or disqualification of any judge of the court of appeals, and he may assign any judge of the court of appeals, in any county, to hold court.

These, in the main, are the principal provisions of the proposals introduced by Judge Peck, and the adoption of this proposal will involve a radical change in our judicial system.

The Halfhill proposal provides for the selection of one resident judge of the court of common pleas and such additional resident judge or judges as may be provided by law in each county, abolishing the present districts in which common pleas judges are selected; continues the probate court in each county, but provides that in any county having less than 60,000 population whenever ten per cent. of the electors voting for Governor at the preceding election shall petition the judge of the court of common pleas to submit the question to the electors of combining the probate court with the court of common pleas, if the majority vote is in favor of such combination the courts shall be combined, and be known as the court of common pleas, and grants authority to increase or diminish the number of judges of the Supreme Court and to increase beyond one or to diminish to one the number of judges of the court of common pleas in any county and to establish other courts whenever two-thirds of the members elected to each House shall concur therein.

In this connection it is interesting and will be instructive to examine the experiences of the state of Ohio with reference to the

judicial system as it has existed from the beginning down to the present time.

The first Constitution of Ohio, known as the Constitution of 1802, provided that the judicial power of the state, both as to matters of law and equity, be vested in a Supreme Court, in courts of common pleas for each county, in justices of the peace, and in such other courts as the Legislature might, from time to time, establish.

The Supreme Court originally consisted of three judges, until 1816, when the membership of the court was increased to four, and by the Constitution there could be no more judges of the Supreme Court, so this continued to be the number of judges of the Supreme Court until after the Constitution of 1851 went into effect. The judges were appointed for terms of seven years by a joint ballot of both Houses of the General Assembly. Judges of the court of common pleas were selected in the same way. The Supreme Court had original and appellate jurisdiction, both in common law and chancery, in such cases as should be directed by law, and held court in different parts of the state and were required to hold a session in each county of the state once a year.

The state was originally divided into three circuits for the selection of judges of the court of common pleas, and in each circuit there was selected a resident judge, and in each county not more than three nor less than two associate judges, and three judges and the resident judge and associate judge, in their respective counties, any three of whom was a quorum, composed the courts of common pleas. The number of circuits was thereafter increased; associate judges were frequently not members of the bar. The court of common pleas also had jurisdiction of probate and testamentary matters.

The work of the Supreme Court was very much behind and the requirement that court be held in each county was a burdensome requirement. These facts together were potent influences for calling a new constitutional convention, and later in the adoption of the provisions of the Constitution of 1851.

By the Constitution of 1851 all judges were made elective, and the Supreme Court consisted of five judges and was given original jurisdiction in quo warranto, mandamus, habeas corpus and procedendo, and such appellate jurisdiction as might be provided by law. A district court was created which should have like original jurisdiction with the Supreme Court, and such ap-

pellate jurisdiction as might be provided by law. District courts were composed of the judges of the court of common pleas in the respective districts, and one of the judges of the Supreme Court, any three of whom should form a quorum, and the district court was required to hold three yearly sessions in not less than three places in the district. The court of common pleas was constituted as at present and the state divided into districts and subdivisions. The probate court was created.

The work of the Supreme Court was so far behind that at the annual October election of 1875 a constitutional amendment was adopted providing for a Supreme Court Commission of five members, appointed by the Governor to hold office for the term of three years from and after the 1st of February, 1876. This commission was authorized to dispose of such part of the business then on the dockets of the Supreme Court as should, by arrangement between the commission and the court, be transferred to the commission, and the commission was given like jurisdiction and power in respect to such business as the Supreme Court had. The commission did efficient work and sat for three years. In the amendment to the Constitution authorizing the creation of the commission was a further provision that the General Assembly, upon application of the Supreme Court, duly entered on the journal of the court and certified, might provide by law whenever two-thirds of each House should concur therein, from time to time, for the appointment in like manner of a like commission, with like powers, jurisdiction and duties, provided that the term of such commission does not exceed two years, nor should it be created oftener than once in ten years. On February 15, 1883, the Supreme Court made application to the General Assembly for the appointment of a commission, and an act was passed establishing the commission, and April 17, 1883, a second commission was appointed and served for a period of two years.

From the adoption of the new Constitution in 1851 this situation continued. The old district court never gave general satisfaction and there was complaint about the delay attendant upon the administration of justice, and it seems to me as I have examined the minutes of the early meetings of the Ohio State Bar Association that this situation was one of the main reasons which called into existence the Ohio State Bar Association. The earlier work of the association had to do with recommending changes in our judicial system.

At the first meeting of the Ohio State Bar Association, held in Cleveland, July 9th, 1880, Judge Rufus P. Ranney, the first president of the association, a member of the Constitutional Convention of 1851, for years a judge of the Supreme Court and one of the best lawyers of the state of Ohio, in speaking in support of a motion to instruct the committee on Judicial Administration and Legal Reform to prepare a plan to facilitate the administration of justice in the state said:

"We undertook the job, in this state of creating too many courts, of requiring the process to be too long to go from one end to the other of the judicial system. What is wanted in this state is that which is adopted in every other state that I know of in the Union, and which is an inherent quality of every judicial system, that there shall be competent judges to decide cases in the first instance between parties, and other competent judges, simply to decide whether the cases have been rightly decided or not. When you get more than that, you have got more than the demands of justice require; and every addition you make to the simplicity of such a system is a clog upon the progress in getting through the courts."

Judge Ranney then urged the abolishment of the old district court, then in existence, and the increase of the number of judges of the Supreme Court, and said that in the Constitutional Convention of 1851 he had urged a simple enlargement of the old system prior to 1851 by adding to the force of the Supreme Court, was all that was required for a speedy and correct administration of justice in Ohio.

The association held an adjourned meeting at Columbus, Ohio, in December, 1880, and the committee on Judicial Administration and Legal Reform, through its chairman, submitted a plan and a resolution; the subject was earnestly discussed and the report of the committee was adopted, and the committee was instructed to present the report to the Legislature and urge its substantial adoption.

At the session of the association in 1881 the committee reported a memorial it had submitted to the General Assembly, and at the session of 1882 a plan was submitted which provided for the abolishment of district courts and the institution in their stead of circuit courts. The members of the State Bar Association were active and aided in securing the passage of the Constitutional Amendment of 1883, and their further influence in favor of

this amendment was recognized at the session of the Ohio State Bar Association held in 1885, shortly after the creation of the circuit court, when General Asa W. Jones, in his address as president of the association, said:

"This association originated the circuit court; caused it to be brought into existence and must stand sponsers to the people of Ohio for its success."

And he further said:

"The circuit court was originated as a relief to the overburdened docket of the Supreme Court and as a place at which to call a halt in a great volume of litigation; but it can only succeed in fulfilling the mission by carefully, fully and patiently considering the matters brought before it and ably and correctly determining the right of parties litigant. If it does less than this it becomes, like the defunct district court, a mere gateway or half-way house on the journey to the court of the last resort."

The Constitution Amendment of 1883 did not change the jurisdiction of the Supreme Court but it authorized an increase in the number of the judges and provided that whenever the number of judges should be increased, the General Assembly might authorize the court to organize a division thereof, not exceeding three, each division to consist of an equal number of judges.

The General Assembly has never increased the number of judges so that it was not practicable to have three divisions. The circuit court was created with the jurisdiction it has at present.

In the calendar of the Supreme Court for the January term of 1912 appears a table showing cases filed and disposed of each year from 1852 to January 1, 1912. There were pending on the general docket for the January term of 1911, at the opening of the term 762 causes. During the year 1911, 500 new cases were filed on the general docket and during that year 564 were disposed of, so that on January 1, 1912, the calendar contained 699 cases. In a letter from Supreme Court Clerk Frank E. McKean, dated June 19th, 1912, responding to my inquiry, he says that there were on that date pending in the Supreme Court 691 cases, and that cases in their regular order, submitted without oral argument, are heard in from twelve to sixteen months from the date of filing by the full court, and that it is not customary to submit that class of cases to a division of the court.

The clerk further states that cases in which oral argument is

had are reached in from fourteen to sixteen months when assigned to a division of the court, but that when oral argument is had to the full court cases are reached in from twenty to twenty-four months.

The clerk further states in this letter that during the last three or four years the court has not been gaining in its work, nor has it been falling behind, but he directs attention to the table given in the court calendar as showing that the work of the court has greatly increased in recent years.

It was the evident purpose of the members of the Constitutional Convention to endeavor to relieve the Supreme Court. The plan suggested by Judge Ranney and approved by Judge Burrows in his address as president two years ago, was considered, but in working out a plan for the relief of the Supreme Court the members of the Constitutional Convention have endeavored to follow the plan that was adopted years ago, at the time the United States Circuit Court of Appeals was created to relieve the Supreme Court of the United States.

At that time there were those who believed that litigants would never be satisfied unless their cases were finally submitted to the Supreme Court of the United States, and that no work would be left for the Supreme Court of the United States to do, but the change in the federal court system has been generally satisfactory and the Supreme Court of the United States has found plenty of work to do without hearing every controversy that is now disposed of by the circuit court of appeals, and it is now apparent that if the circuit court of appeals had not been created and given final jurisdiction that the Supreme Court of the United States would now have been so hopelessly behind in its work that it would have been useless to have taken cases to that court, ever expecting to have them disposed of within any reasonable time.

The result of the adoption of the proposal by Judge Peck will be to reform the judicial system of Ohio; to limit the work of the Supreme Court and to dignify and increase the importance of the court of appeals. The delay now resulting from taking cases to the Supreme Court will be eliminated and it will be possible for litigation to be finally disposed of in from eighteen months to two years sooner than heretofore. The circuit court will no longer be a mere passage-way to the Supreme Court, as the court of appeals will have a finality of jurisdiction that will clothe it with authority and give it greater importance. The new judicial

system complies with the fundamental rule that each suitor is entitled to one trial and one appeal.

The state of Ohio since the organization of the circuit court has been fortunate in the selection of judges of that court. Many have been promoted to the Supreme Court, and others who have not aspired to that court have made excellent records, so that the circuit courts have the general confidence of the people.

The revisory power of the Supreme Court will be retained so as to require uniformity in all the courts of appeal and to consider cases of public or great general interest. The constitutional convention has preserved the right to have an appeal in equity cases and practically to permit two trials. As first adopted this was not so provided. One trial is sufficient with one appeal. This is not serious as many of the circuit courts at present have adopted a rule requiring the testimony taken in the court of common pleas to be written out and then to hear the case befor the circuit court on the record, with such additional testimony as the circuit court might receive. This rule should be generally adopted. It provides for taking the testimony before a court, and for a review of the entire case on law and evidence.

More power should be given to the courts to assist the juries in reaching a conclusion of the matter before the court and jury. Courts should be allowed to comment on the facts. The federal practice could well be followed in this way, and when we are adopting some of the provisions of the federal court it would be well to adopt others to the end that justice may be obtained promptly, as that is the sole end of all litigation.

Justice Gray, of the Supreme Court of the United States, said:

"Trial by jury is a trial presided over by a judge with authority not only to rule upon objection to evidence and to instruct the jury upon the law, but also when in his judgment the due administration of justice requires it to aid the jury by explaining and commenting upon, and even giving them his opinion upon questions of fact, provided only he submit these questions to their determination."

In the Peck proposal there is a provision that the Chief Justice of the Supreme Court of the state may assign any judge of the court of appeals to any county to hold court, and in the Halfhill proposal there is a provision giving similar authority with reference to the judges of the court of common pleas. When these proposals shall be adopted there will be, for the

first time, a single authority having power to assign judges to any jurisdiction in the state. There should be such a number of judges of the courts of common pleas that a cause could be tried within six months after it was at issue, if it was desired, and the work of the court of appeals should be so arranged that cases could be tried within three months from the time filed in that court. By reason of the centralizing of the authority in the chief justice the work of the courts can be supervised, and when any court shall be unable to take care of the cases and keep up the docket it will be possible to assign judges from jurisdictions in the state where there is not sufficient work, and in this way to afford temporary relief to the various jurisdictions, and the recommendation of the chief justice would have a large influence in securing the enactment of legislation to provide for additional judges whenever needed.

In view of the requirement that cases can not be reversed because a verdict is against the weight of the evidence, except by the concurrence of all the judges of the courts of appeal, final judgment should generally be rendered and the cases disposed of.

The courts should be liberal in the trial of cases and should endeavor to ascertain the facts, as a law suit is a judicial investigation and not a contest between the attorneys. When the evidence has been given in open court and the record made and the facts found, the court should determine the law applicable thereto. If a suitor is not satisfied with the judgment of the court of common pleas it should be easy and inexpensive to secure a review and final determination of the cause. Complete transcript of the testimony should not be required unless it is essential to present the issue to the court of appeals.

There is much to commend in the present practice of bankruptcy courts reviewing cases from referee where the question to be reviewed is certified to the district court.

If the provision permitting less than twelve jurors to render a judgment shall be adopted there would be another reason why the scintilla rule should be abolished. Courts should not be required to submit cases to jurors where a judgment would not be allowed to stand if rendered.

The members of the Ohio State Bar Association should urge the adoption of the proposal by Judge Peck and the Halfhill proposal to the end that the present just criticism against delay in our courts may be removed.